

**CONFIDENTIAL**

OGC 70-0794

18 May 1970

**MEMORANDUM FOR:** [ ] Office of Communications 25X1A

**SUBJECT:** Post Employment Activity - Conflict of Interest

**REFERENCES:**

- (a) Your memo to OGC, dtd 17 Apr 70,  
Subject: Conflict of Interest
- (b) OGC 70-0730 to C/Admin/OC, dtd  
8 May 70, Subject: [ ] 25X1A
- (c) ADM-M70-0060 to OGC fr C/Admin./OC,  
dtd 13 May 70, Subject: [ ] 25X1A

1. In reference (a) you requested our opinion as to whether certain post employment activity you propose would be prohibited by the conflict of interest statutes, and in this regard you stated your Agency assignments over the past five years. Reference (b) sets forth in more detail the proposed post employment activity and requests of your employing office corroboration as to your stated assignments and also certain information regarding Agency procedures in handling the sort of post employment activity you propose. Reference (c) is in response to reference (b) and among other things, corroborates your statements as to past Agency assignments which could possibly have any bearing on the question presented.

2. Subsections (a) and (b) of 18 U.S.C. 207 contain post employment prohibitions applicable to persons who have ended service as officers or employees of the executive branch, the independent agencies or the District of Columbia, including special Government employees.

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3. Subsection (a) of section 207 bars the former employee for life from acting as agent or attorney for anyone other than the United States in connection with certain matters involving a specific party or parties in which the United States is one of the parties or has a direct and substantial interest and in which the former employee participated personally and substantially as an employee of the Government.

4. Subsection (b) of section 207 creates a one-year bar against personal appearance as an agent or attorney before a court or the executive branch for anyone other than the United States in connection with certain matters involving a specific party or parties in which the United States is a party or directly and substantially interested and which was under the official responsibility of the former employee at any time within one year prior to the termination of such responsibility.

5. The Attorney General in a memorandum regarding the conflict of interest provisions (see annot., 18 U.S.C.A. 201) has said the following with regard to 18 U.S.C. 207:

Subsections (a) and (b) describe the activities they forbid as being in connection with 'particular matter s involving a specific party or parties' in which the former officer or employee had participated. The quoted language does not include general rulemaking, the formulation of general policy or standards, or other similar matters. Thus, past participation in or official responsibility for a matter of this kind on behalf of the Government does not disqualify a former employee from representing another person in a proceeding which is governed by the rule or other result of such matter.

Furthermore, this quoted language was subjected to a detailed analysis shortly after its enactment into law in October 1962 in an article entitled The New Federal Conflict of Interest Law, Harvard Law Review, Vol. 76, No. 6, p. 1113 (April 1963), wherein the author states:

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The most fundamental limitation on the postemployment ban is that it creates no bar whatsoever on immediate appearance before any government agency with respect to new matters. Any transaction involving the Government that comes up after the day the former employee leaves office cannot have been subject either to his personal participation or his official responsibility and therefore falls, . . . , outside the postemployment restriction.

6. Given the above, your proposed post employment activity would not involve you with "particular matters involving a specific party or parties" in which you either participated personally and substantially or over which you had any official responsibility while an Agency employee. Rather, your proposed activity would involve new matters and, therefore, is not prohibited by 18 U.S.C. 207.

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Office of General Counsel

25X1A

cc: C/Admin./OC

OGC:RLB:sab

Distribution:

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1 - ☒ CONFLICT OF INTEREST

1 - ☐ Signer

1 - Chrono

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ADM-M70-0060  
13 May 1970

MEMORANDUM FOR: Office of General Counsel

ATTENTION :   
SUBJECT :

REFERENCE : Memo to C/Admin/OC fr OGC, dtd 8 May 70,  
Same Subject (OGC 70-0730)

1. A review has been made of reference memorandum and we concur in  statement of assignment plus your summarization as outlined in paragraph 1 of reference.

2. The standard operating procedure for obtaining contract for repair and maintenance of general communications equipment is to place such a requirement on the Office of Logistics. They, in turn, review the specification and in accordance with Agency regulations, contact selected, cleared contractors and request submission of sealed bids. The Office of Logistics administers the bids in conjunction with the Office of Communications. In some cases, where a contractor is the sole manufacturer of the equipment, he handles the maintenance. The number of firms bidding for this type of work is relatively few. Should  establish a firm, he would be required to obtain necessary clearances for the firm and/or himself and then act as an agent to this or any other Agency that might have maintenance and repair contracts. Should his bid be the lowest and meet all other criteria, he would negotiate a contract with the Office of Logistics representatives -- he would never negotiate a contract directly with the Office of Communications.

3.  has not had any "official responsibility" during the past 5 years in administering an operation of the repair, maintenance or overhaul of communications equipment for the Office of Communications. Based on the facts submitted, the Office of Communications concurs in  request and can foresee no adverse effects upon the Agency should his request be granted.

Chief, Administration Staff, OC

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GROUP 1  
Excluded from automatic  
downgrading and  
declassification

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OGC 70-0730

8 May 1970

MEMORANDUM FOR: Chief, Administration Staff/OC

SUBJECT: [REDACTED]

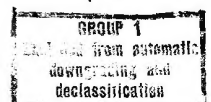
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25X1A 1. Attached is a copy of subject's request to this office concerning a possible conflict of interest situation. As noted therein, [REDACTED] upon retirement, would like to organize a group to bid on small government contracts for repair, maintenance and overhaul of communications equipment. He advises the undersigned that this would be a small service type facility of which he would be an equity owner. He proposes to bid for repair and maintenance to general communications equipment, not including testing instrumentation or other specialized communications gear unique to this Agency. Mr. [REDACTED] claims that his only Agency connection with the type of post employment activity he envisions was during the period he served as [REDACTED] from approximately 1959 to 1963. During this period he was responsible for the repair and maintenance of general communications equipment returning from the field. He indicates that most of the equipment at that time was repaired by the [REDACTED] occasionally, however, equipment would be sent for repair to outside firms. He claims not to have been involved personally in either the bidding or negotiating process involved in the assignment of any such repair and maintenance work to outside firms.

2. As per our telecon this date, we would appreciate receiving from you the following:

25X1A a. Corroboration, additions, modifications, etc. of [REDACTED] claims as set out in the above paragraph and also his statement of assignments for the past five years as set forth in his attached memorandum to this office;

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25X1A b. What is the current Agency procedure for determining which outside firm, if any, receives contracts for repair and maintenance of general communications equipment? Is such work solicited by bid? How would a firm such as [ ] proposes, normally become involved in the process? Are there many such firms involved or relatively few? Is there an actual contract negotiation involved? In other words, what contacts would normally be involved between the outside firm and the Agency?;

25X1A c. Has [ ] at any time during this last year of employment with the Agency, had any "official responsibility" over the general activity he proposes to involve himself in after his retirement? By "official responsibility" is meant direct administrative or operating authority whether intermediate or final and either exercisable alone or with others and either personally or through subordinates to approve, disapprove or otherwise direct government action.

d. Your general comments on the proposed activity and its adverse effects, if any, upon the Agency.

SIGNED

[ ]  
Office of General Counsel

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**Attachment**

25X1A OGC: [ ] sab

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1 - ☒ CONFLICT OF INTEREST

25X1A 1 - [ ] Signer

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OGC 70-0607

Approved For Release 2002/11/21 : CIA-RDP72-00310R000100280009-8  
UNITED STATES GOVERNMENT

# Memorandum

TO : Chief, General Counsel

DATE: 17 April 1970

25X1A FROM :

[Redacted]

SUBJECT: Conflict of Interest

1. I am retiring from government service on 31 May 1970 and am planning to organize a group to bid on small government contracts for repair, maintenance or overhaul of communications equipment.

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[Large Redacted Box]

3. In view of my assignments, will I be affected by the conflict of interest regulations in forming such a service group? This question has been discussed informally with your office. If further information is required my extension is [Redacted]

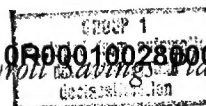
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[Redacted]

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